

The Beef Trust, the Courts and the Law's Delay—A Lesson for the Hour

B. O. Flower, in the Twentieth Century Magazine: As a concrete example of the break-down or the essential inefficiency of our present unrepresentative government—or, to be more exact, government representative of privileged interests and machine politicians—the nine-year record of the government's attempt to mete out justice to the law-defying beef trust is impressive and valuable to thoughtful friends of popular sovereignty. Surely, no sane man imagines that such inefficiency, such delay and governmental impotence as are here exemplified could be possible under a genuinely popular representative government, like that which prevails in Oregon, for example, or in Switzerland, or even in England, where the government is far more representative of the will of the voters than in America since the feudalism of privileged wealth and the party bosses have become the master political influences.

The Record of Nine Years of Judicial Delay

Recently the New York World published a detailed chronicle of the nine years' pretended effort of the republican administrations, under Presidents Roosevelt and Taft, to obtain a decision in regard to the charges of law violation on the part

of the beef trust. Here is the humiliating historic record:

1902

May 10—Government files petition for an injunction against the beef trust in the federal court in Chicago.

May 20—Judge Peter S. Grosscup issues temporary injunction.

September 10—Packers file a demurrer, alleging they are not engaged in interstate commerce.

1903

February 18—Judge Grosscup overrules the demurrer and orders the temporary injunction to remain in force, giving the packers till March 2, 1903, to answer, appeal or default.

March 1—Counsel for packers announce their intention of appealing to supreme court of the United States against the overruling of their demurrer, but do not do so. Judge Grosscup then fixes April 18 as the date for the packers to file answer to the government's bill.

May 27—Judge Grosscup makes the injunction permanent, and the packers enter an appeal to the supreme court against the injunction.

June—Mr. Cortelyou, as secretary of commerce and labor, orders Commissioner of Corporations Garfield to investigate the beef trust.

1904

The government, considering the Grosscup injunction as a complete victory, waits for the defendant packers to ask the supreme court to fix a date for hearing the appeal.

July 25—President Roosevelt orders the department of justice, through Attorney General Moody, to advance the beef trust case to the calendar of the United States supreme court in order that it might be tried early in October.

1905

January 4—Briefs filed in the supreme court by both the government and the packers.

January 16—Beef trust case argued in the supreme court.

January 31—United States supreme court sustains Judge Grosscup's injunction, and the way is clear for the federal authorities to prosecute and punish packers who continue to defy the decree of the lower court.

February 21—Special federal grand jury called in Chicago to pass on evidence of violation of anti-trust law by packers. Criminal indictments sought.

March 4—Roosevelt transmits to congress Commissioner Garfield's report on the beef trust.

March 29—Thomas J. Connors, general superintendent of Armour & Co., indicted for attempting to influence a witness before the grand jury in Chicago.

April 14—Four officials of the Schwarzschild & Sulzberger Co., indicted for obstructing the service of federal subpoenas.

July 1—Federal grand jury in Chicago indicts seventeen individuals and five corporations; bonds fixed at \$5,000 in each case.

September 4—Indicted packers obtain an adjournment on the ground they are not ready to plead.

September 21—Four officials of the Schwarzschild & Sulzberger Co. plead guilty to conspiracy to obtain rebates from railroads and are fined \$25,000.

October 23—Packers file a special plea in bar claiming immunity from prosecution under the indictments on the ground that the evidence on which it was based had been obtained by the bureau of corporations under authority of congress and that immunity had been promised them by Commissioner Garfield.

November 17—In an official statement Attorney General Moody declares that no immunity was promised and that none of the information obtained by the bureau of corporations had been used before the grand jury.

1906

February 22—Commissioner of Corporations Garfield admits under oath that he had worked in conjunction with the department of justice, and

March 21—Judge J. Otis Humphrey holds that the individuals are immune from prosecution under the criminal indictments, but the indictments against the corporations stand.

April 6—Attorney General Moody decides that no appeal can be taken from Judge Humphrey's decision.

October 13—The department of justice decides to drop the prosecution.

1907

September 18—Another federal grand jury called in Chicago for the prosecution of the packers for violations of the anti-trust law is begun in Chicago. No indictments returned.

1908

December 7—Grand jury investiga-

tion of railroad rebates to the packers and violations by the latter of the anti-trust law is begun in Chicago. No indictments.

1909

February 9—Renewed investigation by a federal grand jury of charges of rebating and price-fixing, and effort by government to prove "that the meat trust exists and that the National Packing company is its operative machinery."

1910

March 21—Attorney General Wickersham files a petition against the beef trust—the National Packing company and ten subsidiary corporations—for restraint of trade.

September 12—Federal grand jury returns three indictments each against L. F. Swift, Edward H. Swift, Charles H. Swift, Francis A. Fowler, Edward Tilden, J. Ogden Armour, Arthur Meeker, Thomas J. Connors, Edward Morris, Louis H. Heyman.

September 12—Following these indictments the government files a civil suit for the dissolution of the National Packing company and the appointment of a receiver. In this suit ten subsidiary corporations and sixteen additional firms and individuals are named.

September 13—The packers give bail in \$30,000 apiece.

November 17—Packers protest Judge Landis on the ground that in 1895 he had been employed as a special assistant United States attorney in connection with a prosecution against them under the anti-trust act.

December 15—The indictments against the packers are amended and strengthened.

December 24—The packers claim the right to have the civil suit tried before the criminal indictments.

December 27—Attorney General Wickersham orders the civil suit dismissed in order to avoid delay in the criminal prosecutions.

December 28—Packers protest against the dismissal of the civil suit. Are overruled.

1911

January 2—Judge Carpenter denies a motion of the packers that the government be restrained from proceeding against them criminally.

March 22—Judge Carpenter overrules a demurrer by the packers, who allege that Judge Humphrey's immunity decision is continuing in its effects and covers all future time so long as the acts covered by the 1906 decision remain the same. Judge Carpenter denies a motion to quash the indictment.

April 13—Packers present a special plea that the anti-trust act itself did not create any new crime, and hence even if the packers disobey the statutes they are committing no criminal act.

May 17—Packers come into court again to have the indictments quashed on the ground that there had been no "unreasonable" restraint of trade as defined by the supreme court in the "Standard Oil" decision.

June 3—Packers file briefs asking for rehearing of their motions to quash the indictment against them.

July 5—Packers plead "not guilty," and trial is fixed for November 20, 1911.

The Beef Trust's Case Used as a Foot-Ball in the Federal Courts

In an editorial leader published on September 5th, the World thus comments on this shameful exhibition of judicial and executive inefficiency:

"Elsewhere on this page we print a chronology of the beef trust cases, showing how they have been used as a foot-ball in the federal courts for more than nine years.

"No other trust so vitally affects the cost of living; no other trust has such tremendous power to oppress every class of citizens from the richest to the poorest. Yet the government's so-called prosecutions have been a continuing grant of immunity and after nine years the first criminal case is yet to be brought to trial.

"Great corporations will never take the anti-trust law seriously if the United States government itself does not take the law seriously. They will never respect the criminal prohibition against restraint of trade if the government itself does not respect it. The record in this case is a disgrace to American institutions. It is a scandalous thing that with all its power the government of the United States in nine years has not yet brought a single packer to the bar of justice to prove his guilt or innocence.

"These prosecutions have served only to make the law ridiculous and to bring the authority of the federal government into contempt. In no

other civilized country would such a record be possible."

Why This Delay in Giving the People Relief?

We wish to call special attention to the significant admission on the part of the World in the first paragraph of the above editorial, where it states that these cases have been used as a foot-ball in the federal courts for more than nine years. Does the World imagine for a moment that such results would have been possible if the judiciary had not been made up largely of attorneys who had for years been trained to look at all great corporation cases through the glasses of the corporation magnates? Does the World imagine that a judiciary subject to a popular recall would have permitted the beef trust to enjoy immunity for nearly ten years, while the people were being systematically plundered? And finally, does the World imagine that if the beef trust and other privilege-enjoying corporations and monopolies had not been large contributors to the political campaign funds of the great parties, the complexion of the judiciary and of the law-enforcing departments of the executive government would have been the same as it is today?

And this brings us to one of the greatest fallacies that marks the arguments of the enemies of the judicial recall.

Prevailing Conditions Inimical to an Unbiased Judiciary

An independent judiciary made up of corporation lawyers whose rise to distinction, wealth and power has been largely due to their success in fighting for privileged wealth against popular rights and the laws of the land, is an impossibility, unless that judiciary is subject to the sovereign power in popular government—the people. And in saying this it is not necessary to infer that the judiciary is corrupt or intentionally recreant to its trust, but it is made up largely of men whose most intimate business associates and paying clients have been and are master spirits in

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